

1 Deiss
 2 Aaron?
 3 A. Yes.
 4 Q. The next sheet in is another version
 5 of sheet A-2. Very minor notations here --
 6 A. Um-hum.
 7 Q. -- relating to one of the bedrooms.
 8 This is an electrical plan?
 9 A. Yes.
 10 Q. "Reflected sealing" --
 11 A. "Reflected ceiling plan." Just shows
 12 the position of lights.
 13 Q. Yes. Next sheet in, it looks like
 14 A-3?
 15 A. Yes.
 16 Q. And again, the handwritten notations
 17 there from Aaron?
 18 A. Yes.
 19 Q. And this looks like some details or
 20 elevations for the foyer.
 21 A. Correct.
 22 Q. Next sheet in, another version of A-3.
 23 Again, handwritten notations look like they are by
 24 Aaron?
 25 A. Much older, it's November 5, 2008.

1 Deiss
 2 Q. In fact, I think that there's various
 3 dates on these. For example, A-3, the one we've
 4 looked at prior, is dated December 12, 2008, do
 5 you agree with that?
 6 A. Yes.
 7 Q. As the project progresses and you have
 8 your set that you generated on December 23rd that
 9 we looked at before, is staff still going through
 10 older iterations of the drawings, making
 11 corrections and then updating what's on the
 12 computer?
 13 A. As long as there are changes and
 14 corrections that have to be made, during the
 15 process of getting the construction documents
 16 together, yes, you have to do that. You have to
 17 update absolutely everything.
 18 Q. To your recollection, was a final set
 19 of construction drawings ever issued, something
 20 that didn't say "preliminary"?
 21 A. No.
 22 Q. We're now looking at sheet A-4, and
 23 this has an original date of November 5, 2008.
 24 Again, the notations on these elevations for the
 25 living room are from Aaron?

1 Deiss
 2 A. Yes.
 3 Q. These kind of notations, for example,
 4 at the bottom elevation is "living room west
 5 elevation." This says -- does that say red?
 6 A. Yes. Red means it's -- it's the plot
 7 line. It means a certain thickness of the line
 8 that you set up the computer to draw for a certain
 9 element of the drawing.
 10 Q. And here where there is, obviously
 11 from the computer, the word "stone" next to the
 12 handwritten "jamb"?
 13 A. Stone jamb, yes.
 14 Q. So he's calling for the inclusion of
 15 the word "jamb" on the next iteration?
 16 A. Yes.
 17 Q. Basically, cleaning up the details,
 18 correct? Yes?
 19 A. Cleaning up the drawings.
 20 Q. What's this say here? Can you read
 21 that word?
 22 A. "Change door."
 23 Q. That is the living room south
 24 elevation?
 25 A. Yes, it is.

1 Deiss
 2 Q. "Doors to the library, change door."
 3 Any idea what that's changing it to?
 4 A. No.
 5 Q. Or from?
 6 A. Probably -- it's going to be reflected
 7 in the next drawing.
 8 Q. Next we see another version of A-4.
 9 We see a notation here, it looks like "change," or
 10 "correction by Eric."
 11 A. Yeah.
 12 Q. Handwriting on this sheet, again,
 13 appears to be from Aaron.
 14 A. Yes.
 15 Q. It says, "No." See that? There's a
 16 big swoop here, arrow from side to side over the
 17 living room east elevation, that says, "No."
 18 A. I don't know. It's probably the
 19 position of the elevation itself that's -- that's
 20 being moved here. We're still moving around
 21 pieces, elevations from different -- on different
 22 pages.
 23 Q. And here we're looking at sheet A-6.
 24 And this is the library, correct?
 25 A. Yes.

1 Deiss

2 Q. And the original date on this is
3 November 5. So the details are still being moved
4 around?

5 A. Not the details. I mean, I see that
6 the drawings themselves, they are still moving
7 them around on the sheet, through the layer of the
8 sheet properly. But here there are still a lot of
9 design corrections.

10 Q. And on this particular sheet, there's
11 changes or notations related to the bookshelves,
12 some related to the doors, there's a reference
13 here to "soffit."

14 A. Yes.

15 Q. Any idea what these kind of scratches
16 here are?

17 A. Yeah. That's the metal profile here,
18 the leather wrap and the panel.

19 Q. Now we're looking at sheet A-5.

20 A. Um-hum.

21 Q. This has an original date of December
22 12.

23 A. Yes.

24 Q. And what does this concern, "Dining
25 room"?

1 Deiss

2 A. But -- yeah, the same day he left. He
3 basically, we were there, we had all of our
4 drawings and boxes and panels and whatever, and he
5 took them on the plane and left.

6 Q. Did you give him, Voronchenko, did you
7 give him a complete set of what we've marked as
8 your construction set of documents?

9 A. Yes.

10 Q. So you gave him the complete roll?

11 A. Yes.

12 Q. Inclusive of any and all design
13 changes up to that point in time?

14 A. Yes.

15 Q. And you also gave him a copy of that
16 presentation brochure?

17 A. Correct.

18 Q. Okay. And did you give him any
19 material samples?

20 A. Yes. We had prepared boxes with
21 layouts of material samples that were going to be
22 part of the project.

23 Q. And what were in those boxes? What
24 were the samples of?

25 A. Marble, leather, metal, every wood,

1 Deiss

2 A. Yes.

3 Q. More redlining?

4 A. Yes.

5 (A pause in the proceedings.)

6 Q. So Ms. Deiss, we're now looking at
7 sheet A-6. This is another iteration of the
8 library, correct? With some more redlining?

9 A. Red lines, yes.

10 Q. Yes. To your recollection, when --
11 you know, I think I started to ask you some
12 question when the computer went out on the blink.

13 When you had the presentation with
14 Voronchenko and Mr. Braverman in late January,
15 early February 2009, following that meeting, did
16 you -- "you" meaning Triarch -- undertake any red
17 lines, any changes to the then-existent set of
18 plans?

19 A. Not to my recollection.

20 Q. How long after that meeting was it
21 that Voronchenko disappeared, as you put it?

22 A. Well, he left the same day.

23 Q. He left for Russia?

24 A. No, to Geneva, I remember.

25 Q. Oh.

1 Deiss

2 every single finish we were using in the project
3 was in that.

4 Q. And you considered that to be part of
5 your scope of work, to provide that --

6 A. We do that usually. We don't usually
7 give it to the client. But we definitely have the
8 samples and show them to the client.

9 Q. And then he went to Geneva, to your
10 recollection, immediately afterwards.

11 A. Yes.

12 Q. And you never heard directly from him
13 again?

14 A. No.

15 Q. And I'll ask first you personally, you
16 never heard from him again?

17 A. No.

18 Q. How about Triarch, did it hear from
19 him again?

20 A. Not from him directly. We heard from
21 his attorney.

22 Q. I see. Was that Mr. Israel or
23 somebody else?

24 A. Um -- no, we received a letter from an
25 attorney.

1 Deiss
 2 Q. Yes.
 3 A. I don't remember who that was.
 4 Q. And we're looking now at sheet A-9 in
 5 this collection. This particular version is dated
 6 December 23rd, 2008. And this is marked up,
 7 correct?
 8 A. Yes.
 9 Q. And it looks like, although maybe it's
 10 been transferred, looks like "CB Eric, 1/5/09."
 11 A. Um-hum.
 12 Q. So to your recollection, were the
 13 December 23rd, 2008 preliminary set subjected to
 14 further changes?
 15 A. Yes.
 16 Q. And to your recollection, was a
 17 complete updated set ever issued following
 18 December 23rd, 2008?
 19 A. Yes.
 20 Q. And would it be that set which was
 21 given to Mr. Voronchenko?
 22 A. Yes.
 23 Q. And that would be somewhat different
 24 than what I was given today, correct?
 25 A. Yes, I think so.

1 Deiss
 2 Q. And the final iteration that was done,
 3 did it include this kind of wall treatment for the
 4 dining room that we see?
 5 A. No.
 6 Q. Did not have the crosshatching?
 7 A. No.
 8 Q. All right. We're going to refer to
 9 sheet A-9 of Exhibit 7, which is what earlier
 10 today we were referring to as the final version of
 11 the drawings. And this sheet, which has got a
 12 date of December 23, 2008, "Preliminary issue
 13 set." Again, this is the dining room, correct?
 14 A. Um-hum.
 15 Q. And -- yes?
 16 A. Yes.
 17 Q. And in this depiction, the walls are
 18 clean.
 19 A. Yes, they are.
 20 Q. Okay. I should have asked this
 21 earlier. On most of the sheets, if not all of
 22 them, I'm not going to go through each one again,
 23 it says, on the very bottom, "Drawn by AB, AP,
 24 EO." Who are those three individuals?
 25 A. Aaron Boucher, Andrea Pelliconi, and

1 Deiss
 2 Eric Olsen.
 3 Q. SC would be your partner, Stephen
 4 Corelli?
 5 A. Yes.
 6 Q. And he was the only registered
 7 architect when this project was in-house, correct?
 8 A. Correct.
 9 Q. And was he obligated to review or
 10 check all --
 11 A. No.
 12 Q. -- drawings, final drawings before
 13 they issued?
 14 A. No.
 15 Q. Is there a requirement that you're
 16 aware of, that final set of construction documents
 17 upon which bids would be issued and bids would be
 18 solicited, and work would be done, there's no
 19 requirement that you're aware of that a registered
 20 architect review and sign those plans?
 21 A. I don't know. We do it automatically.
 22 Q. What do you mean, you do it
 23 automatically?
 24 A. We always review the final set of
 25 construction drawings.

1 Deiss
 2 Q. When you say "we," who do you mean by
 3 "we"?
 4 A. Stephen and I.
 5 Q. On projects, do you issue drawings for
 6 bid solicitation and construction which bear your
 7 initials? Which would be --
 8 A. MD.
 9 Q. -- MD, thank you.
 10 A. I review them, yes.
 11 Q. And then you put your initials, MD?
 12 A. Yes.
 13 Q. Without "SC" appearing there?
 14 A. Usually, Stephen is the one that
 15 reviews, has the final reviews of the construction
 16 documents.
 17 Q. But that's my question. Now, on this
 18 project, I see SC's initials on there, which is an
 19 indication that Mr. Corelli, at least with the
 20 finished product, reviewed it.
 21 A. Yes.
 22 Q. Is that your standard practice, to
 23 have Mr. Corelli, who's the only registered
 24 architect --
 25 A. Yes, it is.

1 Deiss
 2 Q. -- review it? I told you I speak
 3 slowly. Have to have the budget for that.
 4 All right. I'm looking at the
 5 second-to-last sheet in this collection. It's
 6 designated sheet A-4, dated December 23, 2008,
 7 "Door details," and the top center, this would be
 8 the door to what? Dining room?
 9 A. Dining room.
 10 Q. And the detail on here, can you tell
 11 me what these materials are?
 12 A. What wood. Palisander, wood veneer,
 13 plywood. Metal panel, bronze finish. Door
 14 handle, bronze finish. Leather panel, 1/8 inch
 15 metal frame. LaLique panel, leather panel, wood.
 16 Q. What is a LaLique panel?
 17 A. LaLique is a French glass designer and
 18 fabricator. They make very rare glass, stemmed
 19 glass panels.
 20 Q. Were you ever told what kind of
 21 business Mr. Voronchenko, or businesses that he is
 22 involved in?
 23 A. No. Can you repeat the question, if
 24 I've been told?
 25 Q. Yes.

1 Deiss
 2 A. Yes, Mr. Corelli told me.
 3 Q. And what different enterprises have
 4 you been told that Mr. Voronchenko was involved
 5 in?
 6 A. From my recollection, he has been
 7 involved in beauty malls, or beauty -- duty-free
 8 shops, something like that. And he also was an
 9 art collector.
 10 EXH (Defendant Exhibit 10, document
 11 entitled, "Schedules and Details," dated
 12 10/19/08, marked for identification, as of
 13 this date.)
 14 Q. I show you a single sheet which we
 15 marked as Exhibit 10 of today's date. It's
 16 entitled, "Schedules and Details," and it has a
 17 date of October 19, 2008. This was kind of a
 18 stand-alone document from your production. It's
 19 the only one with that date that I think I came
 20 across.
 21 What's the purpose of this document?
 22 Let's put it that way.
 23 A. The purpose of this document is first
 24 of all to be part of the set of construction
 25 documents. And specifically calls out the

1 Deiss
 2 finishes in the apartment, the size and finishes
 3 of the doors and the hardware.
 4 Q. Did this change from when this was
 5 first issued up to when the construction set
 6 issued?
 7 A. Most probably, it would evolve.
 8 Q. Yes. And did the final set of
 9 construction documents that we were looking at
 10 earlier today, which we marked, I think, as
 11 Exhibit 7, did that have a schedule in there like
 12 this?
 13 A. It should have it. I don't know if it
 14 did. I didn't check the whole set that was
 15 printed for today.
 16 Q. And would it be typical for your folks
 17 to issue a schedule and detail like this before
 18 issuing full-sized drawings?
 19 A. We had to do it because we were pushed
 20 by the client to do everything at the same time,
 21 go as fast as we could. So we worked on the
 22 project in different stages all together.
 23 MR. McKEE: Let's mark this.
 24 EXH (Defendant Exhibit 11, set of various
 25 sheets, all dated 11/14/08, marked for

1 Deiss
 2 identification, as of this date.)
 3 Q. Okay, Ms. Deiss. I'm going to hand
 4 you a couple of sheets. Again, these were
 5 produced as loose sheets when I saw them, produced
 6 by prior counsel. We've marked these four sheets
 7 as Exhibit 11 of today's date. They have a
 8 November 14, 2008 date. They are all November 14,
 9 all four sheets.
 10 Do you know, you see that there's
 11 various sheets here, A-3, A-5, A-8, A-16. Was
 12 there a complete set issued at that time?
 13 A. We didn't issue drawings like this. I
 14 mean, we would -- we would work on the drawings
 15 and, depending on which part of the apartment we
 16 were working on, they would be printed for
 17 redlines.
 18 I don't know if there was a complete
 19 set at this time that would have 16 drawings.
 20 Probably, on different stages.
 21 Q. Well, if the -- the fourth of these
 22 four sheets is A-16, it would be a reasonable
 23 assumption that you had at least 16 sheets already
 24 generated.
 25 A. Correct.

1 Deiss
 2 Q. So you would work on them, generate
 3 them on your computer system, and if you needed
 4 one, you'd print it out.
 5 A. Yeah.
 6 Q. Which is why maybe we only see four
 7 sheets with that date.
 8 A. (Witness nodding).
 9 Q. I see. Okay.
 10 MR. McKEE: Let's mark these three.
 11 EXH (Defendant Exhibit 12, three sheets
 12 dated 12/12/08, identified as "Preliminary
 13 Issue Set", marked for identification, as of
 14 this date.)
 15 Q. Ms. Deiss, I'm going to show you three
 16 sheets that we've had marked as Exhibit 12, all
 17 three of these are dated December 12, 2008.
 18 Again, identified as preliminary issue set.
 19 Same as before, these might just be
 20 three random sheets that were printed on that
 21 particular date?
 22 A. Um-hum.
 23 Q. Yes?
 24 A. Yes.
 25 MR. MANDEL: Look at the sheets first.

1 Deiss
 2 A. Yes.
 3 Q. To your recollection, was a revised or
 4 new demolition plan issued on or about January 16,
 5 2009?
 6 A. I don't know. I would have to look up
 7 all the drawings.
 8 Q. Okay.
 9 A. We were producing so many drawings,
 10 you know, it's hard to keep track of, you know,
 11 always correcting the date.
 12 Q. Now, is the reason why on your
 13 demolition plan that this bedroom, I think this is
 14 bedroom number two, why the walls that separated
 15 its hallway from the two preexisting closets
 16 aren't identified as being removed to accommodate
 17 the new closets here?
 18 A. They are not being removed because
 19 they say the same.
 20 Q. Oh, the wall ran --
 21 A. Yes.
 22 Q. Well, don't these become, don't those
 23 two closets, which used to be part of --
 24 A. They have new doors.
 25 Q. Facing the other way, correct? Facing

1 Deiss
 2 MR. McKEE: No trick questions here.
 3 Q. So just looking at these, they
 4 would just appear to be three sheets that may have
 5 been printed on that particular day, yes?
 6 (Witness perusing documents.)
 7 A. Yes.
 8 Q. Okay. The date that appears in the
 9 date block on the title block, is that
 10 computer-generated? Or do you have to ascribe --
 11 A. We have to put it in.
 12 Q. You put that date in.
 13 A. Yeah.
 14 Q. Finally, in this group --
 15 MR. McKEE: -- I'm going to mark these
 16 .
 17 EXH (Defendant Exhibit 13, two sheets
 18 dated 1/16/08, marked for identification, as
 19 of this date.)
 20 Q. Okay, Ms. Deiss, I'm going to show
 21 you two sheets which we've marked as D-13. These
 22 both bear the date of January 16, 2008.
 23 A. 2008?
 24 Q. Yes. Which I think we'll all note, or
 25 all agree, is in error.

1 Deiss
 2 into this room.
 3 A. Yes.
 4 Q. Is there a reason why those walls
 5 aren't shown as being removed on your demolition
 6 plan --
 7 A. I don't know.
 8 Q. -- to accommodate that? Okay. The
 9 binders which you maintained or created after the
 10 contractual relationship with Voronchenko, or,
 11 sorry, Medallion, was terminated, you had it
 12 broken up or organized by different individuals;
 13 you put tabs on it for different people?
 14 A. Yes, correct.
 15 Q. Who prepared those books?
 16 A. Aaron Boucher.
 17 Q. And you said he's gone?
 18 A. Yes.
 19 Q. And is he still local?
 20 A. No. Actually, I'm saying no, I don't
 21 know.
 22 Q. All right. Do you have a last known
 23 address for him in your records?
 24 A. Yes, I do.
 25 Q. How about for Mr. Olsen?

1 Deiss
 2 A. He's on the West Coast, yes.
 3 Q. Do you remain in touch with him?
 4 A. With Mr. Olsen I am.
 5 Q. So as part of the work, or to help
 6 facilitate you, meaning Triarch, in doing its
 7 work, did the client provide you with images of
 8 furniture that they had purchased?
 9 A. Yes.
 10 Q. And were they also having furniture
 11 made for the children's bedrooms?
 12 A. Yes.
 13 Q. And provided you with design and color
 14 related thereto?
 15 A. Design, yes. Color, no.
 16 Q. Who is Julie Kofman?
 17 A. Mr. Corelli's Russian wife -- ex-wife.
 18 Q. Whose father was friends with
 19 Voronchenko?
 20 A. Exact.
 21 Q. Yes.
 22 MR. MANDEL: You're a quick study.
 23 MR. McKEE: Let's mark this.
 24 EXH (Defendant Exhibit 14, two-page e-mail
 25 chain dated 1/14/09, between Deiss and

1 Deiss
 2 Kofman, marked for identification, as of
 3 this date.)
 4 MR. McKEE: So I'm assuming I'll be
 5 done by five. And you said you had to leave
 6 at that time.
 7 MR. MANDEL: 5:30. I've got to leave
 8 about 5:30.
 9 MR. McKEE: Well, I'm pretty sure I'll
 10 be done by five, so you can plan, all right?
 11 Because tonight is my kid's last band
 12 performance, because he's not going to do it
 13 again next year. So some parent has to be
 14 there.
 15 MR. MANDEL: Can't miss that.
 16 (Telephone interruption.)
 17 Q. Ms. Deiss, I'm going to hand you what
 18 we've marked as Exhibit 14. For the record, it
 19 is, if we need to, page 2 of 2 is blank. We can,
 20 you know, we'll mark them together. It's a
 21 two-page printout of an e-mail exchange dated
 22 January 14th, 2009 between yourself and Julie
 23 Kofman.
 24 (Handing document to witness.)
 25 A. Oh.

1 Deiss
 2 Q. Do you recognize this?
 3 A. Yes.
 4 Q. Now, why, if I can ask, would Julie
 5 Kofman be e-mailing you asking how your meeting
 6 with V. went, if she was married to your partner
 7 who was also at the meeting?
 8 A. Because at that time, they were
 9 separated.
 10 Q. At the start of this project, and I'll
 11 limit the questions, but at the start of this
 12 project, were they together?
 13 A. Yes, they were.
 14 Q. So in September of 2008, they were
 15 still together.
 16 A. Yes.
 17 Q. But by January 14, which I guess would
 18 have been in or about the date you had the meeting
 19 you were talking about, they had separated.
 20 A. Yes.
 21 Q. And then you reference, you say,
 22 "Thanks for the wine the other night. It was
 23 delicious." She sent you a bottle of wine or
 24 something?
 25 A. No, I was visiting with her in her new

1 Deiss
 2 apartment after she separated from Mr. Corelli.
 3 Q. Okay.
 4 A. I helped her set it up.
 5 Q. And even though she was now separated
 6 from your partner, you maintained a cordial
 7 relationship with her.
 8 A. Of course.
 9 Q. You were friendly with her.
 10 A. Yes.
 11 Q. Okay. And if this is January 14, and
 12 your meeting occurred about that time when you
 13 made the presentation, how long after that was it
 14 that Mr. Voronchenko basically disappeared?
 15 A. When -- I don't remember when our
 16 meeting was exactly, but he disappeared -- I mean,
 17 he left the date of this meeting and I never saw
 18 him again.
 19 Q. There are going to be some breaks in
 20 my questions, because if I don't need to ask you
 21 about a particular e-mail, I'm not going to ask
 22 you about it. I'm eliminating questions. Sam may
 23 ask you questions about this.
 24 Orchid 3-D, was that one of your
 25 subcontractors?

1 Deiss
 2 A. Those were the people that were using
 3 their software and computers for our 3-D drawings.
 4 Q. You were dealing with Ming?
 5 A. Yes.
 6 Q. They were located out of Philadelphia,
 7 Pa.?
 8 A. Correct.
 9 Q. Who dealt primarily with them, was it
 10 you or Andrea --
 11 A. Pelliconi.
 12 Q. -- Pelliconi?
 13 A. I started out dealing with them, and
 14 then I left it more to Andrea and Aaron to deal
 15 with them.
 16 Q. You delegated.
 17 A. Yes.
 18 Q. You would locate furniture pieces and
 19 submit them to the client?
 20 A. I would either submit them to the
 21 client or use them for the 3-D drawings.
 22 Q. To place in the --
 23 A. Yes.
 24 Q. -- to demonstrate how pieces of
 25 furniture might work in the space?

1 Deiss
 2 A. Exactly.
 3 Q. Okay. How much of your time was taken
 4 up by locating items of furniture for inclusion
 5 into your 3-D models?
 6 A. Hard to tell. I don't know.
 7 EXH (Defendant Exhibit 15, e-mail, Deiss
 8 to Andrea, cc to Jean Royera, re large
 9 Palisander and bronze table, marked for
 10 identification, as of this date.)
 11 Q. I'll show you an e-mail from you to
 12 Andrea, e-mailing a Jean Royera?
 13 A. Jean R-o-y-e-r-a.
 14 Q. Jean Royera, "Large Palisander and
 15 bronze table."
 16 A. Jean Royera. My third language is
 17 French.
 18 Q. Royera. So is this an example of what
 19 Palisander wood looks like on this table?
 20 A. It is, yes.
 21 Q. Putting aside the particular finish.
 22 And the purpose of locating a depiction of a piece
 23 of furniture like this is just to use as a mock-up
 24 or a model in your 3-D?
 25 A. Yes, it is.

1 Deiss
 2 Q. It's not that this particular piece of
 3 furniture was being proposed to your client.
 4 A. No.
 5 Q. And was that part of your scope, to
 6 propose or suggest furniture for a particular
 7 setting?
 8 A. No, it was not.
 9 MR. McKEE: Just bear with me a
 10 second.
 11 (A pause in the proceedings.)
 12 MR. McKEE: Let's mark this one.
 13 EXH (Defendant Exhibit 16, e-mail chain,
 14 top e-mail dated 10/27/08, Deiss to Andrea,
 15 marked for identification, as of this date.)
 16 Q. I'm going to hand you a four-page
 17 document we've marked as Exhibit 16. It's an
 18 e-mail chain. The most recent one is from
 19 yourself to Andrea dated October 27, 2008. What I
 20 want to ask you about one earlier in the chain.
 21 These may not all actually fit
 22 together. This is the way they were produced to
 23 me. There's one here from Andrea to
 24 service@DTstudio.com, "Interior rendering
 25 request."

1 Deiss
 2 (Handing document to witness.)
 3 A. Um-hum.
 4 Q. In that description that's given by
 5 Andrea to this vendor, I guess, third-party
 6 vendor, would you agree with the description she
 7 provides there of what the project is?
 8 A. Andrea is a man.
 9 Q. Okay. Would you agree with the
 10 description he gives?
 11 A. It's enough to get an idea of the
 12 timing to produce the rendering, definitely.
 13 MR. McKEE: Mark this.
 14 EXH (Defendant Exhibit 17, page bearing
 15 two e-mails, top e-mail Aaron to Deiss dated
 16 1/16/09, marked for identification, as of
 17 this date.)
 18 Q. Ms. Deiss, I'm going to hand you what
 19 we've marked as Exhibit 17 of today's date. It's
 20 a two-page e-mail dated January -- well, it's two
 21 e-mails. The top one is from Aaron to you dated
 22 January 16th, 2009. The preceding one is Aaron to
 23 Orchid 3-D dated January 12.
 24 Just take a look at that.
 25 (Handing document to witness.)

1 Deiss
 2 A. Um-hum, yes.
 3 Q. And in that e-mail, was Aaron asking
 4 Orchid to make some additional modifications or
 5 changes to the 3-D renderings?
 6 A. Yes.
 7 Q. Was that in anticipation of the
 8 upcoming meeting with the client --
 9 A. No, that was an ongoing --
 10 MR. MANDEL: Just let him finish. I'm
 11 sorry. You may proceed.
 12 Q. It was an ongoing --
 13 A. It was an ongoing process. We
 14 continually made, updated and changed the imaging.
 15 Q. Yes.
 16 A. Not necessarily because the client
 17 gave us input but because of the way we wanted
 18 them to be.
 19 MR. McKEE: Let's mark this.
 20 EXH (Defendant Exhibit 18, e-mail chain,
 21 top e-mail dated 12/10/08 forwarding
 22 computer-generated images of foyer, marked
 23 for identification, as of this date.)
 24 Q. Ms. Deiss, I'm going to hand you a
 25 multipage document which we've marked as Exhibit

1 Deiss
 2 18 of today's date. On top is an e-mail from
 3 December 10, 2008 showing what I think are some
 4 computer-generated images of what the foyer would
 5 look like.
 6 (Handing document to witness.)
 7 A. Nice work.
 8 Q. Now, these four pictures or depictions
 9 we see here, is this what the foyer was
 10 anticipated to look like?
 11 A. Yes.
 12 Q. The flooring that we see here, is
 13 that -- was that marble?
 14 A. Yes, marble.
 15 Q. With some kind of inlay?
 16 A. Yes.
 17 Q. And was that called out on your plans
 18 to look like that?
 19 A. Yes, it was.
 20 Q. And the wall panels, there are
 21 certainly panels in here that look like wood and
 22 then there's other panels that have a different
 23 covering.
 24 Can you tell me what that is?
 25 A. All the panels are actually in

1 Deiss
 2 Palisander.
 3 Q. Yes.
 4 A. And the doors are the leather and
 5 metal with a wooden frame. Those are all doors.
 6 Q. Okay. And that theme is repeated on
 7 the library door as well, isn't it?
 8 A. Yes, it is.
 9 Q. And is that theme on all the doors in
 10 all the public space, the door into the dining
 11 room, those areas?
 12 A. It is in the foyer.
 13 Q. Yes.
 14 A. And in the library.
 15 Q. You recall we looked at Exhibit 2, I
 16 think was the contract and it didn't have a date
 17 when it was signed, correct?
 18 A. I don't know.
 19 Q. Okay.
 20 A. If it didn't have a date.
 21 Q. Let's go back to it.
 22 A. At the signature, you're correct.
 23 There was no date.
 24 Q. The contract itself is dated September
 25 5, but where signed, there's no indication of

1 Deiss
 2 date; correct?
 3 A. Correct.
 4 Q. Who's --
 5 A. Oh, there is a date.
 6 Q. By Braverman's signature?
 7 A. Yes, it's very small, but there is a
 8 date.
 9 Q. December 9, 2005 -- December 9, 2008.
 10 Okay. You agree with me that that is what that
 11 says?
 12 (Handing document to witness.)
 13 A. I can't read it. It's too small for
 14 me.
 15 MR. MANDEL: I think it says September
 16 5, 2008. But you take a look.
 17 MR. McKEE: Oh, you're right. 2008,
 18 0/9/05. Digitally signed by Garry
 19 Braverman.
 20 Q. Do you know when Mr. Corelli's
 21 signature was affixed to that?
 22 A. I don't know.
 23 MR. McKEE: Let's mark this, please.
 24 EXH (Defendant Exhibit 19, one-page e-mail
 25 from Anne at Triarch, marked for

1 Deiss
 2 identification, as of this date.)
 3 Q. I'm going to hand you a one-page
 4 e-mail from Anne at Triarch. Who is Anne?
 5 A. She was our administrator.
 6 Q. Was. She's gone?
 7 A. Yes.
 8 Q. It says, "Voronchenko contract
 9 digitally signed." Have you ever seen that e-mail
 10 before?
 11 (Handing document to witness.)
 12 A. Yes.
 13 Q. In the main e-mail below, it
 14 references a revised contract.
 15 A. That was the only contract that was
 16 signed, was the revised contract. There was
 17 nothing else.
 18 Q. When did -- does that e-mail help
 19 clarify or refresh your recollection as to when
 20 Mr. Corelli countersigned the agreement?
 21 A. No.
 22 Q. Do you know if it was signed prior to
 23 the date of December --
 24 A. I don't know, but I would assume so.
 25 Q. Okay. Are you sometimes referred to

1 Deiss
 2 as Max?
 3 A. Yes.
 4 Q. It's your nickname?
 5 A. It's my second name.
 6 Q. It's your middle name?
 7 A. Maximilian.
 8 Q. Maximilian? I've never heard a woman
 9 with the name Maximilian. There you go. I get
 10 exposed to new things every day.
 11 The letter which you've referenced as
 12 having come from Voronchenko's attorney, were your
 13 services terminated at that point in time? Yes?
 14 A. It was terminated by that letter.
 15 Q. Yes, that's exactly what I was asking.
 16 A. Well --
 17 MR. McKEE: I have not had the benefit
 18 of seeing that letter. So in addition to
 19 the shop drawings from Mobili --
 20 THE WITNESS: Tempora --
 21 RQ MR. McKEE: -- and termination letter,
 22 I'm going to request a copy of that
 23 termination letter.
 24 Let's mark this one.
 25 EXH (Defendant Exhibit 20, e-mail dated

1 Deiss
 2 1/28/09, Deiss to Kofman, marked for
 3 identification, as of this date.)
 4 Q. I'm going to hand you what we've
 5 marked as Exhibit 20. It's a -- I think it's part
 6 of an e-mail chain, but this is the way I had it
 7 produced to me, a single page, Wednesday, January
 8 28, 2009 from yourself to Julie Kofman.
 9 (Handing document to witness.)
 10 A. Hum, yup.
 11 Q. Do you recall this?
 12 A. Yes, I do.
 13 Q. And when you reference, in the first
 14 sentence, to Julie Kofman, "As you may know, we
 15 received a letter from Voronchenko's attorney this
 16 morning." That's the termination letter?
 17 A. Yes. What date was that?
 18 Q. January 28, 2009. Where you wrote,
 19 "I'm in this as well, not just Stephen." What did
 20 you mean by that?
 21 A. Well, what happened is that Julie told
 22 Stephen that she was going to make sure that we
 23 would lose the project because of their
 24 separation. She said she would call his wife and
 25 just tell her that -- his New York wife, and just

1 Deiss
 2 tell her that -- that he should fire us, that
 3 Stephen behaved poorly and he couldn't be part of
 4 this anymore, and...
 5 Q. I'm sorry, what do you mean by "his
 6 New York wife"?
 7 A. Well, there seemed to be different
 8 families. Mr. Voronchenko has different families.
 9 Q. He's a bigamist?
 10 A. I don't know if he's married to his
 11 New York wife, but his original wife is in Russia,
 12 and he has a family here, and this apartment is
 13 for him and his New York family and there are
 14 other ladies in other locations.
 15 MR. McKEE: Off the record.
 16 (Discussion off the record.)
 17 Q. Okay. All right. So, just so I'm
 18 clear, Julie Kofman, who was the estranged wife of
 19 your partner at the time, she personally undertook
 20 to have this job removed from Triarch.
 21 A. Yes.
 22 Q. Now, in here, you also wrote, "And
 23 believe me, I know how poorly he behaved, but it
 24 still hurts."
 25 Who are you talking about when you

1 Deiss
 2 say, "I know how poorly he behaved," is that a
 3 reference to Mr. Stephen Corelli?
 4 A. I -- I can't answer this.
 5 Q. Well, you wrote it, yes?
 6 A. Yes.
 7 Q. And you've now alleged in your
 8 testimony that Julie Kofman, the estranged wife of
 9 your partner Stephen Corelli, intentionally sought
 10 to scuttle your job, right?
 11 A. Yes.
 12 Q. That's what you just told me. And in
 13 this letter, you write, or e-mail, you write, "I
 14 know how poorly he behaved, but it still hurts."
 15 I'm entitled to know who you're
 16 referring to, and I'm not going to go too far into
 17 this, but I want to know what that's a reference
 18 to. Who was the "he"?
 19 A. I think I meant my partner.
 20 Q. Okay. Now, when you say "how poorly
 21 he behaved," are you talking as it relates to his
 22 relationship with his ex-wife?
 23 A. Yes, I am.
 24 Q. Okay. Are you referring at all as to
 25 how Mr. Corelli behaved in his job performance as

1 Deiss
 2 (Recess taken.)
 3 EXH (Defendant Exhibit 21, e-mail dated
 4 1/29/09, Kofman to Deiss, also labeled "page
 5 1 of 3", marked for identification, as of
 6 this date.)
 7 EXAMINATION (Cont'd.)
 8 BY MR. McKEE:
 9 Q. Ms. Deiss, I've handed you Exhibit 21
 10 with today's date. This is an e-mail dated
 11 January 29, 2009, from Julie Kofman to you, which
 12 you then forwarded on to Stephen Corelli the
 13 following day.
 14 Do you recognize this?
 15 A. Yes.
 16 MR. MANDEL: So the record is clear,
 17 the appears to be part of an e-mail chain,
 18 the last two pages are not here, or the last
 19 however many pages are not here.
 20 MR. McKEE: I'll agree with that. I
 21 think it says page 1 of 3 in the upper
 22 right-hand corner. But I got them as I got
 23 them from the production. So for some
 24 reason, if I'm able to locate the rest of
 25 them I'll be happy to put them into the

1 Deiss
 2 it relates to what he did or didn't do for
 3 Mr. Voronchenko?
 4 A. Not at all.
 5 Q. So it strictly relates, that statement
 6 strictly relates to Mr. Corelli's dealings with
 7 estranged wife.
 8 A. Yes.
 9 Q. Okay. That's it. I don't need to
 10 know the details.
 11 "I can't see you later today. I'll
 12 have to get over it."
 13 Do you currently maintain a friendship
 14 with Julie Kofman?
 15 A. No.
 16 Q. How long after Voronchenko's decision
 17 to pull the plug on his project as a result of her
 18 intervention did you more or less stop being
 19 friends with her?
 20 A. I don't know.
 21 Q. Was it immediately?
 22 A. No.
 23 Q. Okay.
 24 MR. McKEE: I want to make a copy of
 25 this, because it's a longer one.

1 Deiss
 2 record.
 3 Q. Now, in this e-mail from Julie Kofman,
 4 she doesn't seem to be taking any responsibility
 5 for scuttling the job.
 6 A. Yeah.
 7 Q. How is it you came to the conclusion
 8 that it was she who put the kibosh on the job?
 9 A. Stephen told me that Julie told him
 10 that that's what she was going to do. She was
 11 going to call Vladimir's wife.
 12 Q. New York wife.
 13 A. New York wife.
 14 Q. Yes.
 15 A. And make sure that he would lose the
 16 project.
 17 Q. And what could she possibly do to
 18 convince Vladimir to fire you guys?
 19 A. The separation between Stephen and
 20 Julie was not very amicable.
 21 Q. I gathered. It's bitter.
 22 A. And it's a Russian family thing. She
 23 was sure that she could gather, you know, momentum
 24 within her family and Vladimir and make sure that
 25 he would not want to work with Stephen on the

1 Deiss
 2 project anymore.
 3 Q. Yes. But by everything you've been
 4 telling me today, it would seem that the project
 5 design-wise was very near to completion.
 6 A. It was.
 7 Q. And from what else you've told me
 8 also, that Vladimir, or Braverman, were always
 9 pushing you because they were anxious to get this
 10 done, right?
 11 A. Yes.
 12 Q. So it would seem to be a poor business
 13 decision --
 14 A. It depends.
 15 Q. -- to pull the plug on a project if
 16 they were satisfied with the work to date and
 17 satisfied with the design as it stood at that
 18 time, or nearly satisfied with it, to pull the
 19 plug on it.
 20 A. Well, you saw what happened. They
 21 pulled the plug. They didn't pay us. And they
 22 built it. That's my assumption. I don't know.
 23 We -- I haven't seen the apartment. But our
 24 drawings have been used. Pieces of the project
 25 have been produced. I saw some of that.

1 Deiss
 2 Q. While in Italy, you saw the barrel
 3 ceiling, the vaulted ceiling --
 4 A. The vaulted sealing, and I also saw it
 5 my second time, I was shown a sample by Tempora
 6 Mobili saying, "Oh, let me show you something.
 7 This is completely different from what you have on
 8 your drawings," and they show me this sample of a
 9 piece of door and piece of stone and everything,
 10 it was exactly what we had done. It looked like
 11 it came out of the box of samples that we had
 12 given them. It was the exact same thing. So they
 13 were fine. They were fine.
 14 MR. McKEE: Please mark this.
 15 EXH (Defendant Exhibit 22, e-mail exchange
 16 between Deiss and Alberto at Tempora Mobili,
 17 marked for identification, as of this date.)
 18 Q. Ms. Deiss, I'm going to hand you what
 19 we've been marked as Exhibit 22 with today's date.
 20 It's a e-mail exchange --
 21 (Telephone interruption.)
 22 Q. Exhibit 22, e-mail exchange between
 23 yourself and Alberto at Tempora Mobili. I ask you
 24 if you recognize this.
 25 (Handing document to witness.)

1 Deiss
 2 A. Yes, I do.
 3 Q. Now, in this e-mail dated the 28th to
 4 Mr. Alberto, you seem to be indicating that you
 5 could not recommend Mr. Voronchenko as somebody
 6 being of, I'll use my own phrase here, "Of good
 7 repute."
 8 A. Yes.
 9 Q. Why were you writing to Signor Alberto
 10 on the 28th, which was right around the time that
 11 you apparently had just gotten the letter from
 12 Voronchenko's lawyer? Why --
 13 A. Because I was responding to his e-mail
 14 below asking me to send more drawings of the
 15 apartment to him.
 16 Q. Yes.
 17 A. And that was my response.
 18 Q. So they already had some of the
 19 drawings for the apartment, correct?
 20 A. Yes, they did.
 21 Q. Do you know when they started
 22 fabrication?
 23 A. No.
 24 Q. Do you know when they prepared their
 25 shop drawings?

1 Deiss
 2 A. No.
 3 Q. The shop drawings that you have dated?
 4 A. Their drawings?
 5 Q. Yes.
 6 A. I have dated them?
 7 Q. No. You were given copies of their
 8 shop drawings, yes?
 9 A. No. I was not -- oh, I received
 10 copies of the shop drawings from, when -- from our
 11 previous attorney. They never gave me shop
 12 drawings. I never -- I just saw them when I was
 13 there.
 14 Q. Oh.
 15 A. But they did not give me shop
 16 drawings.
 17 Q. I see.
 18 A. I saw their drawings when I was there,
 19 and then I saw copies of it, received copies of it
 20 through our previous attorney who probably got
 21 them from -- I don't know from whom. From Garry
 22 Braverman, or from -- from Garth Hayden, or
 23 someone has these drawings.
 24 Q. But you don't know where they came
 25 from.

1 Deiss
 2 A. No. But they are signed Tempora
 3 Mobili.
 4 Q. I misunderstood. So just so the
 5 record is clear, because it may not be, from what
 6 you were saying earlier, when you were at Tempora
 7 Mobili, they showed you shop drawings that they
 8 had prepared?
 9 A. Yes.
 10 Q. And they showed you some fabrication
 11 that they had done?
 12 A. Yes.
 13 Q. And they told you that their shop
 14 drawings were based upon your drawings?
 15 A. Yes.
 16 Q. But they did not give you copies of
 17 their shop drawings.
 18 A. Correct.
 19 Q. Did you ask for copies of their shop
 20 drawings?
 21 A. No, I did not.
 22 Q. Why not?
 23 A. I was afraid. I was very intimidated,
 24 and I was -- I didn't really know how to handle
 25 myself.

1 Deiss
 2 Q. Why?
 3 A. Because I didn't know what their
 4 relationship was with Voronchenko and what he had
 5 said about us. You know, I -- I...
 6 Q. Well --
 7 A. I was there like a spy more than
 8 anything. I wasn't there in my official role of,
 9 you know, a designer of the apartment.
 10 Q. But you weren't so intimidated that
 11 you wouldn't bring a lawsuit against Voronchenko
 12 and Medallion for breach of contract.
 13 MR. MANDEL: Objection, argumentative.
 14 You may answer.
 15 A. Can you repeat that question?
 16 Q. Well, you did sue. You sued
 17 Voronchenko, correct?
 18 A. Yes.
 19 Q. Okay. And you subsequently brought a
 20 second suit in Federal Court against Voronchenko
 21 and against Garth Hayden, correct?
 22 A. Correct.
 23 Q. So I'm just a little confused as to
 24 why, if you aren't hesitant or afraid to bring a
 25 suit claiming copyright infringement against

1 Deiss
 2 another design professional, you would feel
 3 intimidated about asking a fabricator that you do
 4 business with to just give you copies of his shop
 5 drawings?
 6 A. I did not do business with Tempora
 7 Mobili.
 8 MR. MANDEL: Objection. We are so far
 9 afield at this point from what's relevant
 10 about this case I'm getting the sense, I've
 11 been getting the sense for some time, that
 12 Mr. McKee is trying to help his co-defendant
 13 out, dragging this deposition on as long as
 14 possible.
 15 You know, this has nothing to do with
 16 anything. You want to keep asking about it,
 17 go right ahead but I think it's
 18 objectionable at this point.
 19 MR. McKEE: Okay. Your objection is
 20 noted. And what Sam Israel does with his
 21 questioning or not is completely up to him.
 22 As I said at the start, this is the
 23 first witness. The first witness tends to
 24 get asked more questions than others so that
 25 we get a better feel for what happened on

1 Deiss
 2 the project and what happened after the
 3 project, too, because my client wasn't named
 4 in the original lawsuit.
 5 Notwithstanding the fact that it
 6 appears that she already felt that her plans
 7 were being misused, and then 'till sometime
 8 later, there's a determination made that
 9 there's some similarities, perhaps, between
 10 what my client did and what was done before.
 11 Anyway, let's mark this.
 12 EXH (Defendant Exhibit 23, e-mail, Deiss
 13 to VIP, marked for identification, as of
 14 this date.)
 15 Q. I'm going to hand you what's been
 16 marked as Exhibit 23. It's from you to VIP. Who
 17 had an e-mail address --
 18 A. Vladimir Voronchenko.
 19 Q. It's not Vladimir I. Putin or
 20 something. I'm going to direct your attention to
 21 here where it says, "Dear Anna, thank you for
 22 the" -- can you read that out loud?
 23 A. Yes, "Dear Anna, thank you for the
 24 mail. My understanding is that Mr. Voronchenko
 25 has bought eight panels each, total 16 panels.

1 Deiss
 2 What is the size of the panels? Please correct me
 3 if I'm wrong. Thank you, Michaela."
 4 Q. What does that mean, he bought eight
 5 panels?
 6 A. LaLique panels.
 7 Q. Which you described earlier?
 8 A. Yes.
 9 Q. Okay. So he bought, in his travels
 10 abroad, he bought some LaLique panels?
 11 A. Yes.
 12 Q. With birds?
 13 A. Yes.
 14 Q. And this was something unique that he
 15 wished to incorporate into his library, correct?
 16 A. His apartment.
 17 Q. The library in his apartment?
 18 A. Not necessarily the library. His
 19 apartment, period.
 20 Q. Okay.
 21 MR. McKEE: Let's mark this.
 22 EXH (Defendant Exhibit 24, six-page e-mail
 23 chain dated 12/9/08, marked for
 24 identification, as of this date.)
 25 Q. Ms. Deiss, I'm going to hand you what

1 Deiss
 2 we've marked as Exhibit 24. This is a six-page
 3 e-mail. It's a chain from December 9, 2008.
 4 (Handing document to witness.)
 5 Q. I ask you if you recognize that e-mail
 6 exchange.
 7 A. Yes, I do.
 8 Q. And, "Dear Garry" -- in the first
 9 e-mail here, and I'll look at it upside-down here,
 10 it's from Philip.
 11 A. Yes.
 12 Q. Philip at Libracon.
 13 A. Correct.
 14 Q. And earlier I think you acknowledged
 15 that you had heard of Philip.
 16 A. Yes.
 17 Q. But I don't think you indicated -- and
 18 correct me if I'm wrong, but I don't think you
 19 said you had heard of Libracon before?
 20 A. No, I didn't. No.
 21 Q. Okay.
 22 A. It didn't ring a bell.
 23 Q. Philip wrote to Garry Braverman on
 24 the -- what's the date? December 9, 2008, "Dear
 25 Garry, I'm sending you latest drawings. I hope

1 Deiss
 2 that the architect will understand. I made
 3 corrections on the" -- can you read that word?
 4 A. "Their models."
 5 Q. -- "their models. If they have some
 6 question, I am available for" --
 7 A. "Answering."
 8 Q. -- "answering. I am also" -- I can't
 9 read that word.
 10 A. "Sending."
 11 Q. -- "these drawings" --
 12 A. "To Italy."
 13 Q. Do you know what drawings he's making
 14 reference to?
 15 A. Yes. He's making reference to these
 16 drawings.
 17 Q. And these drawings are again of the
 18 foyer?
 19 A. Yes. These are our drawings.
 20 Q. Your computer models, yes?
 21 A. Our computer model 3-D images, and the
 22 changes he made is simply the wood panels. He is
 23 setting the wood in a different way. The
 24 Palisander has been book-matched in four
 25 directions.

1 Deiss
 2 Q. I see.
 3 A. That is the only change on these
 4 drawings. I remember this.
 5 Q. Now, Braverman then e-mailed you and
 6 said, "Please see attached. Philip is the guy who
 7 has done all" --
 8 A. "Retail developments in Moscow."
 9 Q. What does he mean by -- what do you
 10 understand, if anything, he means by "all retail
 11 developments in Moscow"?
 12 A. Mr. Voronchenko always said that he
 13 was very well versed in construction and
 14 architecture and interior design, and he developed
 15 actually these duty-free beauty malls in Moscow.
 16 And Philip was the person in charge of building
 17 them. So he was the one that had contact with
 18 Tempora Mobili, and I guess other -- other
 19 fabricators.
 20 Q. To your understanding, did Voronchenko
 21 or one of his -- or in this case, Libracon had a
 22 preexisting relationship with Mobili?
 23 A. Yes, they did.
 24 Q. And that would be with this reference
 25 here is, "Affiliated with the shop in Italy"?

1 Deiss

2 A. Exactly. Philip is one of their main
3 clients. That is what they told me. He has
4 contact with a number of Russian people that are
5 fabricating in Italy.

6 Q. Yes. And then you took that and you
7 forwarded it on to Aaron, correct?

8 A. Yes.

9 Q. So did Libracon at any point, while
10 you were involved in the project, provide you with
11 any shop drawings or schematics?

12 A. No.

13 Q. To your recollection, the only
14 involvement Philip at Libracon had to do with the
15 bookending of these Palisander panels in the
16 foyer?

17 A. That was the only thing I saw that
18 they did.

19 Q. To your understanding, did Libracon
20 also provide what might be considered interior
21 design services?

22 A. No. I did not know that.

23 EXH (Defendant Exhibit 25, e-mail, Deiss
24 to Aaron, forwarding e-mail dated 12/8/08,
25 VIP to Deiss, marked for identification, as

1 Deiss

2 Q. Okay. And that was incorporated at
3 the request of --

4 A. Mr. Voronchenko.

5 Q. -- Voronchenko.

6 MR. MANDEL: Do we have an update on
7 when Mr. Israel is returning?

8 MS. ZLOTNIKOVA: He'll be returning
9 soon --

10 MR. MANDEL: Is court going to be
11 done --

12 MS. ZLOTNIKOVA: He's going to be done
13 soon, but you said you wanted to leave --

14 MR. MANDEL: Well, it's 4:25 now. Is
15 he still in court or is he done with court?

16 MS. ZLOTNIKOVA: He's just getting
17 done now.

18 MR. MANDEL: Okay. And he doesn't
19 want to come here now to do questioning this
20 afternoon.

21 MS. ZLOTNIKOVA: Well, he would like
22 to but he's got a lot of questioning that
23 he --

24 MR. MANDEL: Okay. Well, here's what
25 I'll put on the record. I suggest you tell

1 Deiss

2 of this date.)

3 Q. Ms. Deiss, I'm going to give you
4 Exhibit 25 with today's date. It's an e-mail from
5 you to Aaron, forwarding an e-mail from VIP to you
6 dated December 8, 2008. This appears originally
7 to be from Anna Komarova. This is to
8 Mr. Voronchenko.

9 You had dealings with Anna. Would she
10 send you things?

11 A. Yes.

12 Q. Would she send you pictures or samples
13 of things that Mr. Voronchenko wished to include
14 in his project?

15 A. She sent me the measurements of the
16 LaLique panels before.

17 Q. Yes.

18 A. Yes.

19 Q. And in this e-mail, she forwarded you
20 a couple of pictures or depictions of the LaLique
21 panels?

22 A. Yes, she did.

23 Q. And did you incorporate that into your
24 work?

25 A. I did.

1 Deiss

2 Mr. Israel that, if he would like to cross
3 my client, he come here and do so today,
4 when we all agreed the deposition would be
5 held.

6 MR. McKEE: And I'll put on the record
7 that, although I maintain a very calm
8 disposition, I really don't like unnecessary
9 posturing, either from Sam or from you.

10 My questions are going to run at least
11 until 5 o'clock. There's absolutely no
12 purpose for requiring Israel to come back
13 here when you know he's got at least two to
14 three hours of questioning.

15 I also object to your implication that
16 I'm trying to drag this out for Israel's
17 benefit. My questions go directly to things
18 that are being submitted to this witness by
19 her client, who then gave us the same things
20 to incorporate into the project.

21 So it's a little disingenuous on your
22 part to imply that my asking this witness
23 questions about these e-mails is somehow
24 intended to drag out or make a case for Sam
25 Israel. He has his own issues and he's more

1 Deiss
2 than capable to question the witness about
3 those.
4 The witness is here. I have questions
5 that will continue until we terminate for
6 the day. And it really is, I think it's
7 extremely unprofessional to try and posture
8 and say that Israel has to show back up
9 here. For what? Because if we stop at
10 five, he can ask twenty minutes of
11 questioning of this witness? It's
12 ridiculous.
13 MR. MANDEL: I adamantly disagree.
14 And none of this is posturing. I would in
15 fact like to get half an hour done today.
16 The reason I would like to get at least half
17 an hour done today is is that if there's
18 going to be a dispute down the road, it will
19 bridge the gap in that dispute. It will be
20 half an hour less that we have to deal with.
21 And my effort to get another half hour
22 done today after the witness has set aside
23 the whole day, I was very clear with
24 everyone saying that I had to leave at 5:30,
25 and suggested that we start earlier to make

1 Deiss
2 Article 78, which I'm sure will take the
3 whole morning but I can probably be here in
4 the afternoon.
5 MR. MANDEL: I'm supposed to be on
6 vacation tomorrow, but I was contemplating
7 giving up that day or half the day if we
8 could work something out amicably, because
9 you know that is how I approach every issue
10 we've ever confronted in this case. But the
11 witness is unavailable tomorrow morning.
12 And tomorrow afternoon is going to be very
13 difficult.
14 So, you know, I want to be
15 crystal-clear on the record that I don't
16 think the witness is obligated to make
17 herself available any more than today. But
18 just because someone isn't obligated to do
19 something doesn't mean that it doesn't make
20 sense to offer to do it anyway.
21 So it doesn't look like tomorrow is
22 going to be feasible.
23 MS. ZLOTNIKOVA: I think Sam stated
24 his disagreement with your contention that
25 the witness doesn't have to make herself

1 Deiss
2 sure everyone would have as much time as
3 possible today, which I did do.
4 So the suggestion that I'm doing this
5 to posture is just false. I'm doing this to
6 get every minute we can get done today,
7 today and limit any further dispute that we
8 have after today.
9 MR. McKEE: Talking about probably a
10 half hour. I wouldn't worry about it.
11 Assuming that I finish at five. I haven't
12 asked a question about damages yet. So
13 we're getting ahead of ourselves.
14 EXH (Defendant Exhibit 26, e-mail exchange
15 dated 12/2/08, marked for identification, as
16 of this date.)
17 MR. McKEE: If you're looking to
18 continue I have an Article 78 that I have to
19 argue tomorrow morning. I should be here in
20 the afternoon. So if that works out for you
21 and Israel and the witness, I can do that.
22 I have to be before judge --
23 MR. MANDEL: It doesn't matter which
24 judge. A court appearance.
25 MR. McKEE: At 9:30 to argue an

1 Deiss
2 available after today.
3 MR. MANDEL: Yes, he was crystal-clear
4 with his disagreement on that point and I
5 think the record is clear. And I appreciate
6 you adding to that clarity.
7 MR. McKEE: Well done.
8 MS. ZLOTNIKOVA: So I think, is it a
9 possibility for tomorrow afternoon or --
10 MR. MANDEL: No.
11 MR. McKEE: No, that's out.
12 Everybody's schedule just doesn't work. But
13 let's press on.
14 Q. Ms. Deiss, I'm going to hand you an
15 e-mail exchange dated December 2, 2008,
16 Defendants' Exhibit 26. The earlier of the
17 e-mails is from Garry Braverman to you regarding
18 foyer renderings. Actually, it's preceded by a
19 December 1, 2008 e-mail from you to Garry. I ask
20 you if you recognize that exchange.
21 A. This is the same drawing that
22 Exhibit number 1, I think, the one that was in
23 red. It's just in black-and-white.
24 Q. Well, let me ask you a couple of
25 questions.

1 Deiss
 2 Do you recognize the e-mail and the
 3 attachment?
 4 A. I do.
 5 Q. Now, the attachment is a floor plan of
 6 the apartment, correct?
 7 A. Correct.
 8 Q. And it has Cyrillic writing. Do you
 9 happen to read Cyrillic writing?
 10 A. No, I don't. But I recognize the
 11 drawing from what we saw before.
 12 Q. Well, the drawing is clearly of the
 13 apartment at issue, correct?
 14 A. Yes, it is.
 15 Q. Did you get a request from Voronchenko
 16 in the December time frame about opening up that
 17 whole foyer more in keeping with what we see in
 18 this drawing?
 19 I said Voronchenko. I meant from
 20 Braverman.
 21 A. He says that he's entertaining the
 22 idea of redoing the hallway as per attached
 23 drawing.
 24 Q. Yes.
 25 A. Yes.

1 Deiss
 2 Q. You recall that?
 3 A. Yes.
 4 Q. But that never went anywhere with the
 5 drawings you promulgated, correct?
 6 A. No.
 7 Q. Okay. Why not?
 8 A. I don't know. They had many changes
 9 of ideas during the entire process. Many, many,
 10 many. To ask me why not, I have no answer to
 11 that.
 12 Q. Okay. Did you, meaning Triarch,
 13 prepare a full-scale drawing depicting that
 14 changed foyer and how it would impact either the
 15 three-dimensional images, the flow, did you do
 16 anything like that?
 17 A. I don't think we did. We may have
 18 done some sketches about it.
 19 Q. Yes. Okay.
 20 MR. McKEE: Let's mark this, please.
 21 EXH (Defendant Exhibit 27, two-page e-mail
 22 exchange dated 12/16/08, with attached
 23 sketch, marked for identification, as of
 24 this date.)
 25 MR. McKEE: Off the record.

1 Deiss
 2 (Discussion off the record.)
 3 Q. Exhibit 27. This is an exchange of
 4 e-mails dated December 16, 2008.
 5 (Handing document to witness.)
 6 Q. Do you recognize this? I'm sorry, I
 7 think there's an attachment to it. I saw this
 8 drawing last night. Now I've figured out what it
 9 is. This is, to identify it again, it's a
 10 three-page document, December 16, 2008. The third
 11 page is an attached sketch.
 12 (Witness perusing documents.)
 13 A. Yes. I don't remember seeing this
 14 here.
 15 Q. The sketch?
 16 A. No.
 17 Q. Again --
 18 A. This is not one of our drawings.
 19 Q. This is in the order it came to me.
 20 A. Um-hum.
 21 Q. And since the sketch has three areas,
 22 A, B, C, highlighted or clouded, and the e-mail in
 23 here references A, B, C, do you agree that the
 24 e-mail references A, B, C?
 25 A. I do.

1 Deiss
 2 Q. But you don't recall that sketch?
 3 A. I don't recall the sketch. I recall
 4 reading this.
 5 Q. This e-mail?
 6 A. I -- the text of the e-mail.
 7 Q. What about this conclusion here,
 8 "Overall comment, not good. He did not like the
 9 option proposed. Please come up with alternative
 10 options."
 11 Was this just part of the normal
 12 process of developing a final plan?
 13 A. This is just part of posturing.
 14 It's -- he ended up filing -- the amended plans by
 15 Garth Hayden show exactly this layout. So he must
 16 have ended up liking it.
 17 Q. So the amended plan that you say Garth
 18 Hayden infringed on, or that his amended plan,
 19 which is an infringement of yours, is an adoption
 20 of these specific objections --
 21 A. It is, exactly.
 22 Q. Who is Leslie@RMhome?
 23 A. She is part of a business of
 24 construction management that Mr. Voronchenko
 25 wanted us to give the drawings to and start

1 Deiss
 2 getting them to bid on the project.
 3 Q. Is the name of the company Rinehardt
 4 Miller?
 5 A. Yes, it is.
 6 Q. R-i-n-e-h-a-r-d-t Miller?
 7 A. Yes.
 8 Q. And Leslie was, what, a project
 9 manager over there?
 10 A. Correct.
 11 Q. Man or woman, Leslie?
 12 A. Woman.
 13 Q. Where are they located?
 14 A. I don't know. I met with them once,
 15 maybe.
 16 Q. Okay. How many times did you have
 17 correspondence with Mr. Philip from Libracon?
 18 A. Very few times.
 19 Q. Was he acting as a conduit between you
 20 and Voronchenko as to plan review?
 21 A. No.
 22 MR. McKEE: Let's mark this.
 23 EXH (Defendant Exhibit 28, one-page
 24 document entitled, "Invoice, Triarch
 25 Architecture Services Invoice Number 4,"

1 Deiss
 2 dated 2/5/09, marked for identification, as
 3 of this date.)
 4 Q. I'm going to hand you a document which
 5 has been marked today as Exhibit 28, a one-page
 6 document entitled, "Invoice, Triarch Architecture
 7 Services Invoice Number 4," dated February 5,
 8 2009.
 9 Do you recognize that?
 10 (Handing document to the witness.)
 11 A. Yes, I do.
 12 Q. Does that represent your final bill or
 13 invoice that you issued on this project?
 14 A. The last invoice?
 15 Q. Yes.
 16 A. Yes. The last invoice.
 17 Q. And the amount you show on the bottom,
 18 \$173,400, that's the amount you claim you're due
 19 in this matter, correct?
 20 A. Yes, that's correct.
 21 Q. Now, I'd like to go through some of
 22 it.
 23 Now, in here, you seek recovery of 17
 24 percent of \$1.2 million construction budget, do
 25 you see that?

1 Deiss
 2 A. Yes, I do.
 3 Q. How did you come up with a \$1.2
 4 million construction budget?
 5 A. I had to estimate the construction
 6 cost of the project. I sent them a written
 7 estimate about it.
 8 Q. So you did some kind of a takeoff, a
 9 material takeoff?
 10 A. Yes.
 11 Q. Have you done much estimating in the
 12 past?
 13 A. I've done a lot of estimating in the
 14 past.
 15 Q. Okay. Now, you bill for 85 percent
 16 construction documents. This says "85 percent
 17 complete, 90 percent of fee."
 18 A. Yes.
 19 Q. How do you estimate that you completed
 20 85 percent of the construction documents?
 21 A. I estimated that there might be still
 22 additional changes or reviews to it. But that
 23 pretty much most of it, if not more than 85
 24 percent, was done at this point.
 25 Q. If you've already billed 85 percent of

1 Deiss
 2 construction documents, how is it that you've only
 3 billed 90 percent or completed 90 percent of
 4 design development?
 5 A. Because of what I told you before. We
 6 were doing everything at the same time. We were
 7 making adjustments to the design. We were making
 8 design development and construction documents all
 9 together at the same time. It was the only way to
 10 get it done on time and get these renderings
 11 produced.
 12 Q. Other than your in-house estimate or
 13 takeoff of construction, did you get any
 14 third-party estimate done?
 15 A. No. There was no time for it.
 16 Q. Since then, since February of 2009,
 17 have you gotten a third-party estimate?
 18 A. No, I have not.
 19 Q. Now, down here (indicating), we see,
 20 "Less payment" --
 21 A. "Retainer," correct.
 22 Q. And then there's another payment from
 23 November of 2008, of thirty thousand?
 24 A. Yes.
 25 Q. And here it shows a credit of forty

1 Deiss
2 thousand?
3 A. I know. I mean, I saw that the other
4 day when we were actually going over the invoice.
5 I don't know what that is, and if there's a
6 mistake or oversight in here.
7 Q. Because the total credit should be
8 closer to 52,000, correct?
9 A. Yes.
10 MR. MANDEL: Objection.
11 Q. Well, based upon the numbers we see
12 here of a retainer and a payment, there are
13 approximately 52,000 together, yes?
14 A. Correct. I would have to verify this.
15 Q. That's fine. I'm just going by the
16 information on your invoice.
17 A. Yes.
18 Q. Would there be a reason why you would
19 give less than a full \$52,000 credit?
20 A. There might be reason, there might not
21 be. It might be a mistake. I cannot tell. I
22 have not had the chance to review the entire
23 invoice.
24 Q. Okay. Have you done a recalculation
25 of the amount you're owed since preparing this?

1 Deiss
2 A. No, I have not.
3 Q. The -- these additional amounts, let's
4 see, under "Architectural Services" it says,
5 "Architectural services, additional services
6 invoice 1 through 3."
7 What were those additional services?
8 A. I don't have the invoices in front of
9 me.
10 Q. Yes.
11 A. So I can't tell you exactly what they
12 were.
13 Q. So they'd be spelled out in there?
14 A. They would be spelled out there, yes.
15 Q. Okay.
16 RQ MR. McKEE: I don't believe that I
17 received those invoices. I don't recall
18 seeing them in here. This is, in fact, I
19 tagged this because it's an invoice and it
20 stood out. I don't believe I have invoices
21 one through three. So I will request that.
22 Q. The three-dimensional presentations,
23 that \$33,930 charge, that is not included in your
24 basic services?
25 A. No. That is never included in

1 Deiss
2 architectural services.
3 MR. McKEE: Let's mark this as a
4 group.
5 EXH (Defendant Exhibit 29, collection of
6 site photos with cover sheet, marked for
7 identification, as of this date.)
8 Q. I'm going to hand you a collection of
9 what I believe are photographs under cover of a
10 sheet, "Triarch," it says, "Site photos."
11 (Handing document to witness.)
12 Q. Are those photographs taken by Triarch
13 during the months that they were involved in this
14 project?
15 A. Yes, they are.
16 Q. Okay. Thank you. Were they taken by
17 you or a member of your staff? Or did you hire
18 outside --
19 A. Probably someone on my staff.
20 Q. Yes. Were the Voronchenkos living in
21 the apartment at the time?
22 A. No.
23 MR. MANDEL: Objection.
24 A. Not that I know.
25 Q. During the period of time that you

1 Deiss
2 were, Triarch, was working for them, did they
3 reside in the apartment?
4 MR. MANDEL: Who do you mean by the
5 Voronchenkos?
6 MR. McKEE: Mr. Voronchenko and his
7 New York family.
8 A. Not that I know.
9 Q. So it was vacant, to your
10 understanding, it was vacant?
11 A. To my understanding it was vacant.
12 Q. Okay. To your understanding, who was
13 the legal titleholder of this property?
14 A. Medallion.
15 Q. So Voronchenko's name wasn't on it.
16 A. I'm not sure.
17 Q. Did Triarch maintain minutes of
18 meetings?
19 A. Not regularly.
20 Q. Occasionally?
21 A. Occasionally.
22 Q. Did Triarch present or do various
23 presentations over the course of the project?
24 A. Yes.
25 Q. So it wasn't just that one big finale

1 Deiss
 2 at the end.
 3 A. No.
 4 MR. McKEE: Let's mark this.
 5 EXH (Defendant Exhibit 30, set of
 6 documents entitled, "Meeting Notes", marked
 7 for identification, as of this date.)
 8 Q. I'm going to show you what we've
 9 marked at today's date as Exhibit 30. It is,
 10 again, a group of documents produced by your
 11 predecessor counsel. The heading of this section
 12 was, "Meeting Notes," the meetings noted for
 13 October 14, November 5 and 7, December 15, January
 14 14, 15 -- I'm sorry, 14, 19 and 20, 2009.
 15 (Handing documents to witness.)
 16 Q. Recognize those?
 17 A. Yes, I do.
 18 Q. Who would have prepared those?
 19 A. Myself and some people on staff.
 20 Someone on staff.
 21 Q. Yes. And are those minutes of
 22 meetings that occurred on those dates?
 23 A. Yes, they are. But I'm not sure about
 24 the dates, because I don't think we had meetings
 25 on January 14, 19th and 20th.

1 Deiss
 2 Q. Is it customary in your office to
 3 maintain minutes of meetings?
 4 A. Occasionally.
 5 Q. To your knowledge, on this particular
 6 project, are these the only minutes that were
 7 maintained?
 8 A. To my knowledge, they are. Some of
 9 these are telephone notes, as you can see.
 10 Q. That is, as with everything else, that
 11 is in the order it was produced to me.
 12 MR. McKEE: Let's mark this.
 13 EXH (Defendant Exhibit 31, set of
 14 sketches, marked for identification, as of
 15 this date.)
 16 Q. Ms. Deiss, I'm going to hand you a
 17 collection of sketches, drawings, which we've
 18 marked collectively as Exhibit 31. I ask if you
 19 can identify those, please.
 20 (Handing document to witness.)
 21 A. They are our drawings. They are
 22 takeoffs for the dimensions of the apartment.
 23 Q. And were they prepared at diverse
 24 times?
 25 A. Yes, they were. They are actually not

1 Deiss
 2 all our drawings.
 3 Q. Now, the first several you have in
 4 your fingers there, those are prepared by you?
 5 A. Yes, they were.
 6 Q. Now, do you feel you've come across
 7 one that was not prepared by you?
 8 A. Yes.
 9 Q. May I see it, please?
 10 (Document passed to counsel.)
 11 Q. Okay. How do you conclude that this
 12 was not prepared by your office?
 13 A. We would never design a floor like
 14 this in the foyer.
 15 Q. Kind of a parquet-looking thing?
 16 A. Yes. Also, this still shows the foyer
 17 in the configuration that we did not do.
 18 Q. That's closer to what Mr. Hayden's
 19 plan showed, correct?
 20 A. It's in between what we showed and
 21 what he showed.
 22 Q. Okay. And just so the record's clear,
 23 I don't think we have to mark it, submark it, but
 24 this was a computer-assisted drawing, correct?
 25 A. It is, yes.

1 Deiss
 2 Q. And the foyer area is larger than what
 3 you designed and it shows kind of a parquet or
 4 square tile --
 5 A. That's correct.
 6 Q. -- thing. And there are some
 7 handwritten markups on there. Do you recognize
 8 any of the handwriting on there?
 9 A. No.
 10 Q. Okay. Are there any other drawings or
 11 sketches in this grouping that you think are not
 12 generated by your offices?
 13 A. No, this is the only one.
 14 Q. Okay. Just put that back together.
 15 Thank you.
 16 There was a section within your
 17 production which had a divider cover entitled,
 18 "Precedents." What's meant by the designation
 19 "precedents"?
 20 A. Architectural and design elements that
 21 could be relevant to the project. It's a lot of
 22 research that we did.
 23 Q. In looking about the third page in,
 24 there's a depiction of a Nicole Hall, Lille.
 25 A. Yes.

1 Deiss

2 Q. At the top of that picture, is that
3 some kind of a circular recess in the ceiling?

4 A. Yes, it is. But the reason why we had
5 that picture is the piece of furniture, not the --

6 Q. Yes.

7 A. -- recess.

8 MR. McKEE: We can mark it.

9 EXH (Defendant Exhibit 32, photograph
10 labeled "Nicole Hall, Lille", marked for
11 identification, as of this date.)

12 Q. So you were saying that the purpose of
13 this research that was found in precedents, you
14 were drawn to that, or the reason you pulled that
15 is because of the table.

16 A. Absolutely.

17 Q. Okay. Because you felt that was an
18 element that could be incorporated into your
19 design?

20 A. Into the drawings. Into the
21 renderings.

22 Q. Into the renderings.

23 A. In fact, you will see it on the
24 renderings.

25 Q. Yes. But the same element also shows

1 Deiss

2 But is that something else that you
3 thought would help inspire the design?

4 A. No.

5 Q. Okay. Why is that in precedents?

6 A. Because it's from the period that we
7 were researching and that we were going to use.
8 It's just an image.

9 Q. Okay. And the panels, the wood
10 panels, the book-ended wood panels, that didn't
11 help inspire --

12 A. No, that's what helped inspire the
13 Russians, not us.

14 MR. MANDEL: Let him finish the
15 question.

16 Q. So that didn't help inspire the notion
17 or the idea that the Palisander panels would be
18 book-ended?

19 A. No.

20 Q. Is that the proper phrase,
21 "Book-ended"?

22 A. Book-matched.

23 Q. Book-matched. Thank you.

24 A. No, this is actually what the Russians
25 really liked. But not what we designed.

1 Deiss

2 this circular recess in the ceiling of the hallway
3 above it, correct?

4 A. Correct.

5 Q. And that's not an uncommon feature in
6 some upscale homes, is it?

7 A. No, it isn't.

8 Q. No. You might not find it in the
9 house in suburbia with an eight-foot ceiling, but
10 if you're dealing with a property located on Park
11 Avenue, it would not necessarily be uncommon.

12 A. No, it would not.

13 Q. And so the rest of these precedents in
14 here, you would locate these and they would help
15 give you design ideas?

16 A. They would help inspire us to get
17 closer to what his idea of the space would be.

18 MR. McKEE: Would you mark this.

19 EXH (Defendant Exhibit 33, document
20 labeled, "Professor Bruno Paul - Berlin",
21 marked for identification, as of this date.)

22 Q. A document from this section of your
23 files. It is a -- we've marked this Exhibit 33,
24 and it's entitled, "Professor Bruno Paul -
25 "Berlin." I will leave the German to you.

1 Deiss

2 Q. In fact, some of the contents of this
3 section of your files is actually, the pages that
4 look like they are from some kind of Russian
5 architectural digest or some other similar
6 magazine.

7 Were you supplied with various cuts
8 from magazines --

9 A. No.

10 Q. -- by the Russians?

11 A. Not at all. They are actually from
12 architectural books.

13 Q. Architectural books?

14 A. Some of them are about Ruhlman, who
15 was an incredible French furniture designer.

16 Q. Did you take any excerpts from Russian
17 articles or books?

18 A. That is something that was given to
19 us.

20 EXH (Defendant Exhibit 34, document given
21 by Russians, not otherwise identified,
22 marked for identification, as of this date.)

23 Q. Okay. So handing you Exhibit 34, you
24 said that's something the Russians would have
25 given to you, that's what you were just referring

1 Deiss
2 to, correct?
3 A. Yes, that's correct.
4 Q. Now, what is it about that, if you can
5 recall, that they were interested in?
6 A. I have no idea.
7 Q. Do you know if this is from the same
8 periodical or book? Or is this something else?
9 A. I don't know. I imagine, I mean, I
10 don't -- we have never owned Russian magazines or
11 books. So it must have been something that was
12 given to us from -- from Gary or Vladimir.
13 MR. McKEE: See if those two logically
14 follow each other. If they do, I'll staple
15 them together. If they don't, I won't.
16 (Counsel confer.)
17 MR. McKEE: Let's mark this.
18 EXH (Defendant Exhibit 34, proposed first
19 amended complaint, marked for
20 identification, as of this date.)
21 Q. Ms. Deiss, I'm going to hand you
22 what's marked as Exhibit 35. It's entitled,
23 "Proposed First Amended Complaint." Was there any
24 change between this and what you actually filed,
25 do you know?

1 Deiss
2 MR. MANDEL: There is no complaint.
3 There's only a proposed first amended
4 complaint. That's all there is.
5 MR. McKEE: Off the record.
6 (Discussion off the record.)
7 Q. If you go to, well, first of all, have
8 you ever seen the complaint in this matter before?
9 A. I've seen it.
10 MR. MANDEL: Just so the record is
11 clear, this is not the complaint in this
12 matter.
13 MR. McKEE: Proposed first amended
14 complaint.
15 MR. MANDEL: Oh, okay. All right.
16 Q. Have you ever seen it?
17 A. I've seen it.
18 Q. The allegations are pretty much the
19 same as -- to the extent that I care about them.
20 Why don't you open up to page 4. On
21 page 4, paragraph 24, it is alleged that Triarch
22 was owed \$173,400.99. That's the amount that's
23 reflected on that invoice we looked at.
24 A. Correct.
25 Q. So that's where that number comes

1 Deiss
2 from, correct?
3 A. Yes.
4 Q. Now, paragraph 26, it's alleged that,
5 "Upon information and belief, after January 31,
6 2009, the defendants illegally copied and
7 duplicated the architectural work for the
8 renovation and decoration of the project."
9 Did I read that right?
10 A. Yes.
11 Q. When you say "copied and duplicated,"
12 what do you mean?
13 A. I don't understand your question. It
14 seems --
15 Q. Are you saying that my client
16 literally sat down with a copy of your documents
17 dated December 23rd, 2008, and directly copied the
18 information that's on there?
19 MR. MANDEL: Objection.
20 You may answer.
21 A. Yes.
22 Q. Okay. Well, then why would there be
23 differences in the soffit, for example?
24 A. I did not say that he literally copied
25 every single piece. I said that he certainly

1 Deiss
2 copied part of it.
3 Q. Now, if I understand you correctly,
4 until the former Mrs. Corelli decided to
5 intervene, Mr. Voronchenko was happy with the
6 design that he had?
7 A. That's my understanding.
8 Q. That's your recollection.
9 A. Yes.
10 Q. So basically, the design elements that
11 he had in hand at that time are something that he
12 wanted to go with; correct?
13 A. That's my understanding, yes.
14 Q. So those ideas, those notions about
15 what he wanted by way of finishes and doors and
16 colors -- forget colors, but finishes and doors,
17 materials, to your understanding, those are
18 things, those are ideas that Mr. Voronchenko was
19 happy with?
20 A. That was my understanding, yes.
21 Q. Now, is it your position that
22 Mr. Voronchenko is precluded from ever using any
23 of those ideas that may have been developed or
24 discussed during the course of your relationship
25 with Voronchenko?

1 Deiss
 2 A. I don't understand your question.
 3 Q. Well, in other words, the idea to have
 4 a door which has leather panels and brass trim
 5 around it, is it your position that Voronchenko is
 6 precluded from ever having a door with a leather
 7 panel and brass trim around it?
 8 MR. MANDEL: Objection. Calls for a
 9 legal conclusion.
 10 You may answer if you know.
 11 A. I don't want to answer.
 12 Q. I beg your pardon?
 13 THE WITNESS: Do I have to answer?
 14 MR. MANDEL: He's asking you what his
 15 legal rights are. If you have an
 16 understanding of what his legal rights are,
 17 you may answer, if you --
 18 Q. No --
 19 A. I don't know if answer to that
 20 question.
 21 Q. Are you alleging that Voronchenko is
 22 precluded from ever having soffits in his
 23 building?
 24 MR. MANDEL: Exact same objection.
 25 A. I don't have the answer. I don't know

1 Deiss
 2 the answer.
 3 Q. It's your plans that you say
 4 Voronchenko can't use, right?
 5 MR. MANDEL: Same objection. We're
 6 way past the seven-hour point, you know.
 7 I'm letting you keep going but in my opinion
 8 these questions are a total waste of time.
 9 MR. McKEE: Thank you.
 10 A. I don't have the answer to that.
 11 Q. Do you claim any amounts in addition
 12 to the \$173,000, roughly, that you claim as
 13 contract balance?
 14 MR. MANDEL: Same objection, calls for
 15 a legal conclusion.
 16 MR. McKEE: No. I'm asking this
 17 witness if she claims -- I'll phrase it a
 18 different way.
 19 MR. MANDEL: You're asking if she's
 20 asking for statutory damages? What's the
 21 question?
 22 MR. McKEE: No, I'm not. And I
 23 withdrew the last question.
 24 Q. Are you claiming that you've been
 25 damaged at all above and beyond the \$173,000

1 Deiss
 2 contract balance you claim?
 3 MR. MANDEL: Objection, calls for a
 4 legal conclusion.
 5 You may answer if you can answer that
 6 question.
 7 A. I can't answer that question.
 8 Q. You can't. Why can't you answer that
 9 question?
 10 MR. MANDEL: Same objection.
 11 You may answer if you can.
 12 A. I can't answer that question.
 13 Q. Do you claim that you've lost any
 14 business as a result of any action by my client?
 15 A. No.
 16 MR. McKEE: I have no other questions.
 17 MR. MANDEL: All right. That
 18 concludes the deposition of Ms. Deiss. For
 19 the record, Mr. Israel never returned
 20 although he was out of court by 4:25. The
 21 time is now 5:18.
 22 MR. McKEE: All right. And in the
 23 absence of Mr. Israel, I'll note this, that
 24 he did not object to the deposition
 25 continuing in his absence, despite the fact

1 Deiss
 2 that he did not exactly have a stand-in for
 3 him, with no disrespect.
 4 Mr. Israel is more or less a solo
 5 practitioner. My understanding is that he
 6 was compelled to be in court this afternoon
 7 on short notice, and he had to be there.
 8 Rather, quite frankly, rather than
 9 breaking at 2:30 which, if I was in Israel's
 10 position, I would have made every effort to
 11 end this deposition at 2:30, because I would
 12 not be comfortable allowing it to go forward
 13 in my absence, he had someone sit in and
 14 take notes at least and make observations.
 15 So not that I'm in the habit of
 16 standing up for Sam Israel, I think that he
 17 actually extended to some degree a courtesy
 18 by allowing the deposition to proceed,
 19 notwithstanding the court requirement that
 20 he be someplace else.
 21 And believe me, a court order, or a
 22 court appearance takes precedence over a
 23 deposition, notwithstanding the importance
 24 that we put on this deposition. So while
 25 it's Sam's fight to argue whether the

1 Deiss
2 deposition record is closed or not. I
3 certainly won't join in that position that
4 it's closed. There you go.
5 (Time noted: 5:20 p.m.)
6

7
8 MICHAELA DEISS
9

10 Subscribed and sworn to before me
11 this ____ day of _____, 20____.
12
13 _____
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1
2 CERTIFICATE
3 STATE OF NEW YORK)
4 : ss.
5 COUNTY OF NEW YORK)
6

7 I, DAVID LEVY, CSR, a Shorthand
8 Reporter and Notary Public within and for
9 the State of New York, do hereby certify:

10 That MICHAELA DEISS, the witness
11 whose deposition is hereinbefore set forth,
12 was duly sworn by me and that such
13 deposition is a true record of the testimony
14 given by the witness.

15 I further certify that I am not
16 related to any of the parties to this action
17 by blood or marriage, and that I am in no
18 way interested in the outcome of this
19 matter.

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 23rd day of May 2012.
22
23

24 DAVID LEVY, CSR, RPR
25

1
2 *** ERRATA SHEET ***
3 NAME OF CASE: TRIARCH v. MEDALLION
4 DATE OF DEPOSITION: MAY 10, 2012
5 WITNESS: MICHAELA DEISS
6 PAGE LINE FROM TO

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19
20 MICHAELA DEISS

21 Subscribed and sworn to before me
22 this ____ day of _____, 20____.
23
24 (Notary Public) My Commission Expires:
25

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